

which he believed to be limited, then cashed Schley's note for \$2000, at two months, and his draft on F. A. Schley, at four months, for \$2000 more, and agreed to retire, and did retire the previous note at six months, given in March before, which he now holds. He further states, that on the said 4th of September, Schley prepared for execution a renewed mortgage of the Alleghany lands, and another renewal of the bill of sale, but that on his suggestion it was agreed that there should be no further mortgage of the Alleghany lands, and that the bill of sale should be, as before, with the additional statement of the September transactions, and, therefore, the bill of sale thus corrected, was renewed on the 4th and 24th of September, 17th of October, 7th and 26th of November, and 16th of December, 1845, and on the 7th and 27th January, 21st of February, and 12th March, 1846; that having no skill in such matters, he confided the proper preparation of these instruments to Schley, and believes that Schley thought them sufficient, and had no motive for giving false color to the transactions, or misrepresenting the amount due; that discovering an inaccuracy in the latter renewals, in requiring payments of past due notes, this was corrected in the further renewals, which were made on the 31st March, 22d of April, 12th of May, and 4th of June, 1846. And he states that on the 18th of June, 1846, being then first informed, and by the complainant, S. J. K. Handy, of Schley's great defalcation as trustee, and then first made sensible of his risk, he at once, and without consulting Schley, placed it on record before the execution of the complainants' writ, or the order on which it was issued, passed. He denies any knowledge of Schley's receipt of the trust funds, or even that he was trustee, before the 18th of June, 1846, when told by Handy, and also denies the receipt of any of the trust funds to his knowledge.]

THE CHANCELLOR:

This case has been argued before me by counsel, and now comes up for decision.

It appears by the proceedings, that on the 20th of December, 1844, the defendant, Schley, was, by the order of this court, ap-